DOCUMENT RESUME

ED 027 629 EA 002 069

By-Payzant, Thomas

Alternative State Models for the Regulation of Teacher-School Board Negotiations.

Chicago Univ., Ill. Midwest Administration.
Pub Date Nov 68
Note-4p.
Available from-Midwest Administration Center, Univ. of Chicago, 5835 Kimbark Ave., Chicago, Ill. 60637 (single copy, $25, reduced rates for multiple copies).
Journal Cit-Administrator's Notebook; v17 n3 Nov 1968
EDRS Price MF-$0.25 HC-$0.30
Descriptors-*Boards of Education, Collective Bargaining, *Collective Negotiation, *Models, Policy Formation, Political Influences, Public Education, *State Laws, *Teacher Associations
Identifiers-AFT, American Federation of Teachers, National Education Association, NEA

The American Federation of Teachers (AFT) and the National Education Association (NEA) each have developed ideal models of legislation for the regulation of teacher-school board negotiations. The AFT's collective bargaining model and the NEA's professional negotiations model attempt to reflect the philosophical uniqueness of their respective organizations, but the models are neither static nor unique. Analysis of the legislation regulating collective negotiation in public education passed by 10 States, with reference to the AFT and NEA models, shows that the models change to accommodate organizational and political exigencies. Further, State and local affiliates of the national organizations have deviated in their support of the policies promulgated in the models devised by the parent organizations. Political exigencies at the State and local level, especially organizational disputes, appear to be the reasons for the variations between theory and reality in the content of collective negotiation statutes. (TT)

ADMINISTRATOR'S NOTEBOOK

Midwest Administration Center

THE UNIVERSITY OF CHICAGO

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Vol. XVII November, 1968, No. 3

ALTERNATIVE STATE MODELS FOR THE REGULATION OF TEACHER-SCHOOL BOARD NEGOTIATIONS

Thomas Payzant

(School administrators are much aware of the continuing developments in teacher negotiations. State legislative actions have given some impetus to negotiations activities. The nature of such legislative actions may reflect the interests of competing national teachers organizations. In this article the author, Thomas Payzant, Administrative Assistant to the Superintendent, New Orleans Public Schools, analyzes the content of state collective negotiations legislation in terms of the models proposed by the two competing national teachers organizations.)

Now that school boards, teachers, and administrators in ten states can negotiate under various forms of state regulatory legislation, the alternative models of existing state legislation can tentatively be classified. An understanding of the origin of these models and their basic characteristics may help educational policy makers assess amendments to existing legislation and draft new laws to regulate teacher-school board negotiations in those states presently without it.

Prior to 1965 Wisconsin was the only state with a comprehensive statute regulating collective negotiations in public education. During 1965 both branches of legislatures in nine states passed some kind of negotiations bill covering public education.[1] Governors in California, Connecticut, Massachusetts, Michigan, Oregon, and Washington signed bills into law. Rhode Island, Minnesota, and New York subsequently approved negotiations statutes. Several other states have statutes which permit negotiations in public education. Table 1 compares the classification of employees covered and the nature of negotiations--whether permissive or mandatory--provided these laws.

Each state statute has its unique characteristics which makes difficult accurate generalization about specific provisions in the various laws. The differences in wording should not be underestimated; they illustrate a variety of intent and already have been the subject of diverse interpretation. But for the purpose of this article it is necessary to look at these statutes in terms of several categories or models. The Alaska, Florida, and New Hampshire statutes do not require negotiations between school boards and teachers, and the incidence of negotiations in these three states has been slight. Permissive legislation may serve as a necessary prelude to the enactment of more formal regulatory statutes governing negotiations in public education, but the models presented below consider only the ten statutes that now require boards to negotiate if teachers so request.

Collective Bargaining and Professional Negotiation

With the emergence of collective negotiations as a force in public education, the parties immediately affected--school boards, administrators, and teachers--have tried to develop policy statements in this area. The national organizations representing the teachers, the National Education Association (NEA) and the American Federation of Teachers (AFT), have developed model negotiations legislation to reflect their policies. The

TABLE I

State Statutes Pertaining to Negotiations in Public Education

State	Public Employees Covered	Nature of Negotiations
Alaska	Employees of the state and its political sub-divisions	Permissive
California	Employees of governmental units including school employees	Mandatory*
Connecticut	School employees	Mandatory
Florida	Committees of the teaching profession	Permissive
Massachusetts	Public employees including school employees	Mandatory
Michigan	Public employees including school employees	Mandatory
Minnesota	School employees	Mandatory
New Hampshire	Public employees--educational employees not specifically mentioned	Permissive
New York	Public employees including school employees	Mandatory
Oregon	School employees	Mandatory
Rhode Island	School employees	Mandatory
Washington	School employees	Mandatory
Wisconsin	Public employees including school employees	Mandatory

*If requested by the employee organization.

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American Association of School Administrators (AASA), and the National School Boards Association (NSBA), on the other hand, have developed no legislative models but have issued policy statements on teacher-school board relationships.

Each national teachers' organization has formulated an ideal-type model statute for collective negotiations in public education; the "collective bargaining" model (CB) of the AFT and the "professional negotiation" model (PN) of the NEA. Although none of the statutes considered below completely satisfy the specifications of either ideal-type, several of the statutes closely approximate the specifications of one model or the other. Those statutes which do not approximate either model will be considered in a special residual category.[2]

The AFT experienced little difficulty in formulating policies for teacher-school board negotiations. Their affiliation with organized labor (AFL-CIO) committed them to the philosophy that public employees should be granted the same collective bargaining rights afforded employees in the private sector. The 1961 victory of the AFT affiliate in New York City and the subsequent success in bargaining with the Board of Education for a comprehensive written contract marked the real turning point in teacher-school board relations. Drawing on the experience of counterparts in industrial labor relations under the Wagner Act and the practical experience in New York City, the AFT formulated a "national code for teacher negotiations."[3] An AFT model state statute for the regulation of the procedural aspects of public employee collective bargaining would include the following provisions:

1. exclusive recognition of a single bargaining agent who receives the majority vote of employees voting in a secret ballot election;
2. "continuing recognition" until a significant number of the employees petition for a new election;
3. separate negotiating units for supervisory and administrative personnel;
4. unlimited scope to negotiations with the parties actually determining what is bargainable;
5. written agreements which are legally binding;
6. a code prohibiting unfair labor practices and requiring good faith bargaining by both parties;
7. the right to strike;
8. procedures for resolving impasses including mediation, fact finding, and arbitration (non-binding);
9. individual grievance procedures with outside binding arbitration as the final step; and,
10. a state labor relations board to administer the law, e.g., conduct elections, provide mediation services, determine unfair labor practices, etc.

The NEA first passed a resolution on "professional negotiation" at the 1962 delegate convention in Denver which called for professionals "to participate in the determination of policies of common concern including salaries and other conditions of professional service."[4] At succeeding conventions through 1965 the NEA strengthened the resolutions on professional negotiation. In 1963 they wrote the first edition of Guidelines for Professional Negotiation,[5] which committed the organization to a working policy on negotiations and served as a model for proposed state legislation. The 1963 Guidelines were quite general. They recommended all professional negotiation laws include the following:

1. guarantees to remove teachers from the jurisdiction of labor laws and labor precedents;
2. recognition of teaching as a profession and the local professional organization as the representative of its members;
3. inclusion of all members of the profession, including administrators, in the negotiating unit;
4. negotiation between professionals and school boards "on matters of common concern...";
5. the use of professional channels--working with the administration prior to negotiations with the school board; and,
6. the use of educational channels, e.g., the state department of education, for mediation and other appeals to settle an impasse.

The 1965 edition of the Guidelines for Professional Negotiations reflected basic changes in NEA policy.[6] They unequivocally advocated exclusive recognition of the organization which represented the majority of the professional staff and called for written documents to specify the substance of any agreements reached through negotiation. Moreover, the Guidelines rejected the strike as an economic weapon inappropriate for use in professional negotiation, but described sanctions as legitimate non-economic, professional techniques which could be utilized to pinpoint pressure and generate remedies for substandard educational programs.

Comparing the Models--Alternative Typologies

With the basic characteristics of the CB and PN ideal-type models for negotiation legis-

The Problem of Consistency

These typologies highlight several problems which confront the NEA and the AFT as their state and local affiliates support legislation which is often inconsistent with the model statutes advocated by the parent organizations. Generally the AFT has demonstrated greater consistency in their support of the CB model than the NEA has demonstrated in support of the PN model. This consistency stems in great part from the AFT's early identification with an ideal-type statute. The AFT successfully appropriated a model proven in the private sector to challenge traditional school board decision-making prerogatives. The NEA, forced to react by the success of the minority organization, had to construct a viable alternative to the CB model. Their task was complicated by the fact that the major existing model, collective bargaining in the private sector, already had been adopted by their chief competitor. The NEA countered with a concept labelled "professional negotiation" which at first merely described traditional kinds of relationships that existed between teachers and school boards, but over time developed into a variation of the private sector model.

Political exigencies within the state and local organizations, in addition to the social, political, and economic forces in the states themselves, sometimes prevent affiliates from implementing the policies promulgated by their national organizations. As a result, competitive teacher groups may accept a negotiation bill which differs significantly from the model proposed by their national organizations.

The history of the legislative struggle to pass negotiation legislation in Connecticut illustrates the problem outlined above. In Connecticut, the AFT altered its typical position of unequivocal support for a CB model statute regardless of political exigencies and compromised. After a bitter legislative battle, separate bills introduced by the NEA and AFT affiliates were defeated. Each organization subsequently shaped and claimed responsibility for the successful enactment of the Connecticut statute, Public Act 298. Ironically, the Connecticut NEA affiliate accepted a bill much stronger than their original entry, and this stronger bill almost perfectly met the standards of the NEA's currently updated PN model. Without the pressure from the AFT, the construction and passage of the stronger compromise bill would have been impossible. Clearly the NEA concept of "professional negotiation" was changing as a consequence of organizational rivalry. This illustrates the readiness of organizations to alter their policies to accommodate the political realities confronting them in the state legislature.

ADMINISTRATOR'S NOTEBOOK

Published Monthly, September through May, by the

MIDWEST ADMINISTRATION CENTER
THE UNIVERSITY OF CHICAGO
5835 Kimbark Avenue, Chicago, Illinois 60637

J. Alan Thomas . *Director, Midwest Administration Center*

Russell W. Meyers . . . . . *Editor*

Michael E. Manley-Casimir . . . . . *Assistant Editor*

The Midwest Administration Center sponsors a co-operative program of research and action designed to contribute to the improvement of educational administration.

Annual subscription to the *Notebook* (September through May), $2.00. Single copy of any issue, 25 cents. Quantity discounts are available. Address all inquiries to the editor.

Microfilm copies of the *Notebook* are available from University Microfilms, 313 North First Street, Ann Arbor, Michigan.

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Conclusions

Each of the national teacher organizations has developed ideal-type model legislation for the regulation of teacher-school board negotiations. The CB and PN models attempt to reflect the philosophical uniqueness of their respective organizations, but the models are neither static nor "unique." They change to accommodate organizational and political exigencies. State (and local) affiliates of the national organizations have on occasion deviated in their support of the policies promulgated in the models devised by the parent organization. Political exigencies at the state and local level, especially organizational disputes, have been suggested as reasons for the variations between theory and reality in the content of collective negotiations statutes.

This study suggests that educational policy-makers as well as scholars may benefit from continued study of the components of the various state laws. It is helpful to view existing laws in terms of several models, but it is not correct to assume that statutes commonly categorized as NEA or AFT legislation represent an organization's ideal-type and to judge them adequate on this criterion alone.

Notes

1. California, Connecticut, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, and Washington. Gubernatorial vetoes delayed the Minnesota and New York statutes until the 1966-67 sessions.
2. The California, Oregon, Minnesota, New York, and Washington statutes will be included in this residual category. Because of their unique features each statute could be treated as a separate model for negotiations. In fact, to proceed with complete intellectual honesty, it would be necessary to view each of the ten statutes as a separate model. My purpose here, however, is to develop several categories which will enable us to generalize about negotiation statutes at the risk of offending those who believe that the uniqueness of the experience in each state defies generalization.
3. See Charles Cogen, "Greater Status for Teachers--Collective Bargaining: the AFT Way," address given at Conference on Collective Negotiations, Rhode Island College, July 8, 1965, and "Normal Collective Bargaining Procedures vs. Special Procedures for Teachers," American Federation of Teachers, Chicago, January 15, 1966.
4. National Education Association, Addresses and Proceedings, 1962, Washington, D. C., 1962, p. 217.
5. National Education Association, Guidelines for Professional Negotiation, Washington, D. C., 1963.
6. National Education Association, Guidelines for Professional Negotiation, Washington, D. C., 1965.